

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DOT BRELAND and JACK BRELAND

PLAINTIFFS

V.

CIVIL ACTION NO. 1:06CV307 LTS-JMR

**NATIONWIDE MUTUAL
FIRE INSURANCE COMPANY**

DEFENDANT

ORDER

The Court has before it the plaintiffs' motion to strike the answer of Defendant Nationwide Insurance Company on the grounds that the answer was filed one day outside the twenty-day period allowed by the Federal Rules of Civil Procedure. I am of the opinion that granting the relief sought by the plaintiffs would work an injustice in these circumstances. While the answer in this case may have been filed outside the twenty-day period permitted by the applicable rules of procedure, that slight infringement of the rules should not deprive a litigant of the opportunity to defend on the merits of the underlying claim. Accordingly, it is hereby

ORDERED

That the plaintiffs' motion to strike the answer filed by Defendant Nationwide Fire Insurance Company [6] is hereby **DENIED**; and

That the clerk's entry of default is hereby set aside, and the plaintiffs' motion for entry of a default judgment [4] is hereby **DENIED**.

SO ORDERED this 10th day of May, 2006.

s/ L. T. Senter, Jr.

L. T. Senter, Jr.
Senior Judge

